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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,785	12/27/2001	Lawrence J. Seigel	03237.0001U2	1344
35564	7590	11/10/2004	EXAMINER	
WEATHERLY KERVEN LLC 3330 CUMBERLAND BOULEVARD SUITE 500 ATLANTA, GA 30339-5985			WACHSMAN, HAL D	
		ART UNIT	PAPER NUMBER	
		2857		

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT PAPER

11042004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman
Primary Examiner
Art Unit: 2857

Office Action Summary

Application No.

10/034,785

Applicant(s)

SEIGEL, LAWRENCE J.

Examiner

Hal D Wachsman

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 12-38 and 40-44 is/are withdrawn from consideration.
- 5) Claim(s) 1-11,39 and 45-69 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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1. The Examiner confirms the submission of drawing sheet 14 of 27 (Fig. 8-1) that is marked as a "Replacement Sheet" and does not constitute an amendment of the drawing but was submitted to replace a submitted drawing sheet which was missing from the image file wrapper of the application.

2. This application is in condition for allowance except for the following formal matters:

a) The amendment to claim 9, line 5, is improper under 37 C.F.R. 1.121 because a single brackets and not a double brackets was used to delete the letter "s" in the word "indications". Appropriate correction is required.

b) A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because many of the specification amendments made in the Preliminary Amendment dated 5-10-02 including for example the replacement of equations and their numbering, deleting an equation, replacing several paragraphs, deleting a paragraph, etc. were not resubmitted (see paragraph 4 of the prior Office action) for entry in the reply filed 8-20-04 and thus there is ambiguity as to what constitutes the current specification of record as well as ambiguity with respect to the correctness of the current specification if the specification amendments of the Preliminary Amendment dated 5-10-02 are not entered. As the case is in condition for allowance with the exception of the formal matters cited in this Office action, the Examiner also notes that the submission of a substitute specification should help in the arrangement of the papers for printing resolving the types of problems noted above.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. **An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied.** Numbering the paragraphs of the specification of record is not considered a change that must be shown.

c) As was previously cited in paragraph 7 of the prior Office action, the Brief Description of the Drawings is objected to because there is no brief description for Figure 17-1. In addition, the Brief states that Figure 11B is a continuation of Figure 12A however Figure 11B is a continuation of Figure 11A. The Brief states that Figure 16B is a continuation of Figure 16A however Figure 16B is a continuation of Figure 16A-1.

Appropriate correction is required.

d) Withdrawn claims 12-38 and 40-44 have not yet been cancelled.

Appropriate correction is required.

e) The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 50 and 55, refer to "during 1990 or later",

"during the 1980s" and "before 1980", all of which lack antecedent basis in the specification.

f) Claims 1-11, 39 and 45-68 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, lines 17-18, cite "comparing the evaporator efficiency loss value to an evaporator efficiency loss threshold value" however was this intended to be "comparing the evaporator efficiency loss value to an evaporator efficiency loss threshold value to assess chiller efficiency" (see claim 39) ? It appears that the word "and" is missing after line 18 in claim 1. Claim 3, line 9, cites "the handheld device" however the antecedent basis is "portable handheld device". This same type of problem also occurs in claim 5, line 9, claim 52, part B. Claim 9 refers to steps labeled as A and B, however there are already steps with this letter labeling in claim 7 from which this claim depends. This same type of problem also occurs in claims 52, 55, 66. Claim 9, line 10, cites "the selected chiller" which it appears should be "the selected at least one chiller". The last 2 lines of claim 39 cite "...the condenser efficiency value and the evaporator efficiency value" which it appears should be "...the condenser efficiency loss value and the evaporator efficiency loss value". Claim 46, part B, cites "the evaporator loss threshold" which it appears should be "the evaporator efficiency loss threshold". Claim 47, line 1, cites "the compressor *data*" which lacks clear antecedent basis. Claim 48, part A, cites "the compressor *motor*" which lacks clear antecedent basis. This same type of problem also occurs in claim 53, part A. Claim 50, in several locations, cites "the optimal condenser approach" however the antecedent basis is "predetermined optimal

condenser approach". Claim 55, in several locations, refers to "optimal evaporator approach" however the antecedent basis is "predetermined optimal evaporator approach". Claim 57, part B, cites "the optimal condenser refrigerant pressure" however it appears that the antecedent basis is "predetermined optimal condenser pressure". Claim 64, part B, cites "the indication of the condenser remedial action and the evaporator remedial action" which lacks clear antecedent basis. Claim 65, lines 2-3, cites "the condenser problem" which lacks clear antecedent basis. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
November 4, 2004